

§ 655.531

655.541 and not the prevailing practice exception at § 655.510.

§ 655.531 Who may submit attestations for locations in Alaska?

In order to use alien crewmembers to perform longshore activities at a particular location in the State of Alaska an employer shall submit an attestation on Form ETA 9033-A. As noted at § 655.502, “Definitions,” for purposes of §§ 655.530 through 655.541, which govern the performance of longshore activities by alien crewmembers under the Alaska exception, “employer” includes any agent or representative designated by the employer. An employer may file a single attestation for multiple locations in the State of Alaska.

§ 655.532 Where and when should attestations be submitted for locations in Alaska?

(a) Attestations shall be submitted, by U.S. mail, private carrier, or facsimile transmission to the U.S. Department of Labor regional office of the Employment and Training Administration in Seattle, Washington. Except as provided in paragraph (b) of this section, attestations shall be received and date-stamped by the Department at least 30 calendar days prior to the date of the first performance of the longshore activity. The attestation shall be accepted for filing or returned by ETA in accordance with § 655.538 within 14 calendar days of the date received by ETA. An attestation which is accepted by ETA solely because it was not reviewed within 14 days is subject to subsequent invalidation pursuant to § 655.540 of this part. An employer filing an attestation shall have an agent or representative with a United States address. Such address shall be clearly indicated on the Form ETA 9033-A. In order to ensure that an attestation has been accepted for filing prior to the date of the first performance of the longshore activity, employers are advised to take mailing time into account to make sure that ETA receives the attestation at least 30 days prior to the first performance of the longshore activity.

(b) *Late filings.* ETA may accept for filing attestations received after the 30-day deadline where the employer

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could not have reasonably anticipated the need to file an attestation for the particular location at that time. When an employer states that it could not have reasonably anticipated the need to file the attestation at that time, it shall submit documentation to ETA to support such a claim. ETA shall then make a determination on the validity of the claim and shall accept the attestation for filing or return it in accordance with § 655.538 of this part. ETA in no case shall accept an attestation received less than 24 hours prior to the first performance of the activity.

§ 655.533 What should be submitted for locations in Alaska?

(a) *Form ETA 9033-A with accompanying documentation.* A completed and dated original Form ETA 9033-A, or facsimile transmission thereof, containing the required attestation elements and the original signature of the employer or the employer’s agent or designated representative, along with two copies of the completed, signed, and dated Form ETA 9033-A shall be submitted to ETA. (If the attestation is submitted by facsimile transmission, the attestation containing the original signature shall be maintained at the U.S. business address of the employer’s designated agent or representative). Copies of Form ETA 9033-A are available at the National Processing Centers and at the National office. In addition, the employer shall submit two sets of facts and evidence to show compliance with the fourth attestation element at § 655.537 of this part. In the case of an investigation pursuant to subpart G of this part, the employer has the burden of proof to establish the validity of each attestation. The employer shall maintain in its records at the office of its U.S. agent, for a period of at least 3 years from the date of filing, sufficient documentation to meet its burden of proof, which shall at a minimum include the documentation described in §§ 655.530 through 655.541, and shall make the documents available to Department of Labor officials upon request. Whenever any document is submitted to a Federal agency or retained in the employer’s records pursuant to this part, the document shall either be in the English language or shall